

Union Calendar No. 374

110TH CONGRESS
2D SESSION

H. R. 5522

[Report No. 110-601]

To require the Secretary of Labor to issue interim and final occupational safety and health standards regarding worker exposure to combustible dust, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2008

Mr. GEORGE MILLER of California (for himself and Mr. BARROW) introduced the following bill; which was referred to the Committee on Education and Labor

APRIL 22, 2008

Additional sponsors: Ms. WOOLSEY, Mr. BISHOP of New York, Mrs. DAVIS of California, Mr. HARE, Mr. HINOJOSA, Mr. HOLT, Mr. KILDEE, Mr. KUCINICH, Mr. PAYNE, Ms. LINDA T. SÁNCHEZ of California, Ms. DELAURO, Mr. BRALEY of Iowa, Mr. BISHOP of Georgia, Mrs. MCCARTHY of New York, Mr. SARBANES, Mr. COURTNEY, Ms. SHEA-PORTER, Mr. GRIJALVA, Ms. ESHOO, Mr. SCOTT of Virginia, Mr. ANDREWS, Ms. HIRONO, Mr. ROTHMAN, Mr. DAVIS of Illinois, Ms. CLARKE, Mr. YARMUTH, Mr. LOEBSACK, Mr. TIERNEY, Mr. WU, Mr. ALTMIRE, and Mr. SESTAK

APRIL 22, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 4, 2008]

A BILL

To require the Secretary of Labor to issue interim and final occupational safety and health standards regarding worker exposure to combustible dust, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Combustible Dust Explo-*
 5 *sion and Fire Prevention Act of 2008”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds the following:*

8 (1) *An emergency exists concerning worker expo-*
 9 *sure to combustible dust explosions and fires.*

10 (2) *13 workers were killed and more than 60 se-*
 11 *riously injured in a catastrophic combustible dust ex-*
 12 *plosion at Imperial Sugar in Port Wentworth, Geor-*
 13 *gia on February 7, 2008.*

14 (3) *Following 3 catastrophic dust explosions that*
 15 *killed 14 workers in 2003, the Chemical Safety and*
 16 *Hazard Investigation Board (CSB) issued a report in*
 17 *November 2006, which identified 281 combustible dust*
 18 *incidents between 1980 and 2005 that killed 119*

1 *workers and injured 718. The CSB concluded that*
2 *“combustible dust explosions are a serious hazard in*
3 *American industry”.*

4 *(4) A quarter of the explosions occurred at food*
5 *industry facilities, including sugar plants. Seventy*
6 *additional combustible dust explosions have occurred*
7 *since 2005.*

8 *(5) Material Safety Data Sheets (MSDSs) often*
9 *do not adequately address the hazards of combustible*
10 *dusts, and the OSHA Hazard Communication Stand-*
11 *ard (HCS) inadequately addresses dust explosion haz-*
12 *ards and fails to ensure that safe work practices and*
13 *guidance documents are included in MSDSs.*

14 *(6) The CSB recommended that OSHA issue a*
15 *standard designed to prevent combustible dust fires*
16 *and explosions in general industry, based on current*
17 *National Fire Protection Association (NFPA) dust ex-*
18 *plosion standards.*

19 *(7) The CSB also recommended that OSHA re-*
20 *vis the Hazard Communication Standard (HCS)*
21 *(1910.1200) to clarify that combustible dusts are cov-*
22 *ered and that Material Safety Data Sheets contain*
23 *information about the hazards and physical prop-*
24 *erties of combustible dusts.*

1 (8) *OSHA has not initiated rulemaking in re-*
2 *sponse to the CSB's recommendation.*

3 (9) *OSHA issued a grain handling facilities*
4 *standard (29 C.F.R. 1910.272), in 1987 that has*
5 *proven highly effective in reducing the risk of combus-*
6 *tible grain dust explosions, according to an OSHA*
7 *evaluation.*

8 (10) *No Occupational Safety and Health Admin-*
9 *istration standard comprehensively addresses combus-*
10 *tible dust explosion hazards in general industry.*

11 (11) *Voluntary National Fire Protection Associa-*
12 *tion standards exist which, when implemented, effec-*
13 *tively reduce the likelihood and impact of combustible*
14 *dust explosions.*

15 **SEC. 3. ISSUANCE OF STANDARD ON COMBUSTIBLE DUST.**

16 (a) *INTERIM STANDARD.—*

17 (1) *APPLICATION AND RULEMAKING.—Notwith-*
18 *standing any other provision of law, not later than*
19 *90 days after the date of enactment of this Act, the*
20 *Secretary of Labor shall promulgate an interim final*
21 *standard regulating combustible dusts. The interim*
22 *final standard shall, at a minimum, apply to manu-*
23 *facturing, processing, blending, conveying, repack-*
24 *aging, and handling of combustible particulate solids*
25 *and their dusts, including organic dusts (such as*

1 sugar, candy, paper, soap, and dried blood), plastics,
2 sulfur, wood, rubber, furniture, textiles, pesticides,
3 pharmaceuticals, fibers, dyes, coal, metals (such as
4 aluminum, chromium, iron, magnesium, and zinc),
5 fossil fuels, and others determined by the Secretary,
6 but shall not apply to processes already covered by
7 OSHA's standard on grain facilities (29 C.F.R.
8 1910.272).

9 (2) *REQUIREMENTS.*—The interim final stand-
10 ard required under this subsection shall include the
11 following:

12 (A) *Requirements for hazard assessment to*
13 *identify, evaluate, and control combustible dust*
14 *hazards.*

15 (B) *Requirements for a written program*
16 *that includes provisions for hazardous dust in-*
17 *spection, testing, hot work, ignition control, and*
18 *housekeeping, including the frequency and meth-*
19 *od or methods used to minimize accumulations*
20 *of combustible dust on ledges, floors, equipment,*
21 *and other exposed surfaces.*

22 (C) *Requirements for engineering, adminis-*
23 *trative controls, and operating procedures, such*
24 *as means to control fugitive dust emissions and*
25 *ignition sources, the safe use and maintenance of*

1 *dust producing and dust collection systems and*
2 *filters, minimizing horizontal surfaces where*
3 *dust can accumulate, and sealing of areas inac-*
4 *cessible to housekeeping.*

5 *(D) Requirements for housekeeping to pre-*
6 *vent accumulation of combustible dust in places*
7 *of employment in such depths that it can present*
8 *explosion, deflagration, or other fire hazards, in-*
9 *cluding safe methods of dust removal.*

10 *(E) Requirements for employee participa-*
11 *tion in hazard assessment, development of and*
12 *compliance with the written program, and other*
13 *elements of hazard management.*

14 *(F) Requirements to provide written safety*
15 *and health information and annual training to*
16 *employees, including housekeeping procedures,*
17 *hot work procedures, preventive maintenance*
18 *procedures, common ignition sources, and lock-*
19 *out, tag-out procedures.*

20 *(3) PROCEDURE.—The requirements in this sub-*
21 *section shall take effect without regard to the proce-*
22 *dural requirements applicable to regulations promul-*
23 *gated under section 6(b) of the Occupational Safety*
24 *and Health Act of 1970 (29 U.S.C. 655(b)) or the*

1 procedural requirements of chapter 5 of title 5,
2 United States Code.

3 (4) *EFFECTIVE DATE OF INTERIM STANDARD.*—

4 *The interim final standard shall take effect 30 days*
5 *after issuance. The interim final standard shall have*
6 *the legal effect of an occupational safety and health*
7 *standard, and shall apply until a final standard be-*
8 *comes effective under section 6 of the Occupational*
9 *Safety and Health Act (29 U.S.C. 655).*

10 (b) *FINAL STANDARD.*—

11 (1) *RULEMAKING.*—*Not later than 18 months*
12 *after the date of enactment of this Act, the Secretary*
13 *of Labor shall, pursuant to section 6 of the Occupa-*
14 *tional Safety and Health Act (29 U.S.C. 655), pro-*
15 *mulgate a final standard regulating combustible dust*
16 *explosions.*

17 (2) *REQUIREMENTS.*—*The final standard re-*
18 *quired under this subsection shall include the fol-*
19 *lowing:*

20 (A) *The scope described in subsection (a)(1).*

21 (B) *The worker protection provisions in*
22 *subsection (a)(2).*

23 (C) *Requirements for managing change of*
24 *dust producing materials, technology, equipment,*
25 *staffing, and procedures.*

1 (D) *Requirements for building design such*
 2 *as explosion venting, ducting, and sprinklers.*

3 (E) *Requirements for explosion protection,*
 4 *including separation and segregation of the haz-*
 5 *ard.*

6 (F) *Relevant and appropriate provisions of*
 7 *National Fire Protection Association combustible*
 8 *dust standards, including the “Standard for the*
 9 *Prevention of Fire and Dust Explosions from the*
 10 *Manufacturing, Processing, and Handling of*
 11 *Combustible Particulate Solids” (NFPA 654),*
 12 *“Standard for Combustible Metals” (NFPA 484),*
 13 *and “Standard for the Prevention of Fires and*
 14 *Dust Explosions in Agricultural and Food Proc-*
 15 *essing Facilities” (NFPA 61).*

16 **SEC. 4. REVISION OF THE HAZARD COMMUNICATION**
 17 **STANDARD.**

18 (a) *REVISION REQUIRED.*—*Notwithstanding any other*
 19 *provision of law, not later than 6 months after the date*
 20 *of enactment of this Act, the Secretary of Labor shall revise*
 21 *the hazard communication standard in section 1910.1200*
 22 *of title 29, Code of Federal Regulations, by amending the*
 23 *definition of “physical hazard” in subsection (c) of such*
 24 *section to include “a combustible dust” as an additional*
 25 *example of such a hazard.*

1 (b) *EFFECT OF MODIFICATIONS.*—*The modification*
2 *under this section shall be in force until superseded in whole*
3 *or in part by regulations promulgated by the Secretary of*
4 *Labor under section 6(b) of the Occupational Safety and*
5 *Health Act of 1970 (29 U.S.C. 655(b)) and shall be enforced*
6 *in the same manner and to the same extent as any rule*
7 *or regulation promulgated under section 6(b).*

8 (c) *EFFECTIVE DATE.*—*The modification to the hazard*
9 *communication standard required shall take effect within*
10 *30 days after the publication of the revised rule.*

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